

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **CHAIRMAN DON HARGROVE**, on February 1, 2001 at 10:00 A.M., in Room 335 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Don Hargrove, Chairman (R)  
Sen. John C. Bohlinger, Vice Chairman (R)  
Sen. Edward Butcher (R)  
Sen. Pete Ekegren (R)  
Sen. Eve Franklin (D)  
Sen. Ken Toole (D)

**Members Excused:** Sen. Jim Elliott (D)  
Sen. Fred Thomas (R)

**Members Absent:** None.

**Staff Present:** Lynette Brown, Committee Secretary  
David Niss, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SR 13, SR 15, 1/22/2001  
Executive Action: SR 6, SR 8, SR 10, HB 91,  
SB 296

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#### **HEARING ON SR 13**

**Sponsor:** SEN. DON HARGROVE, SD 16, Belgrade

**Proponents:** Tom Ebzery, Montana Contractors Association

**Opponents:** None

The confirmation hearing for the **Director of Commerce, Mark Simonich**, began as **Mr. Simonich** told the committee this was his third opportunity to serve as a director of a department. Under Governor Racicot, he served first as the Director of Natural Resource and Conservation for 2½ years, then following the major reorganization, he became the Director of the Department of Environmental Quality. **Mr. Simonich** said he brought to the Department of Commerce past experience as a director which would be beneficial. Because of his past experience, he was used to managing large groups of people.

**Mr. Simonich** said he had a bachelor's degree in forestry. He had worked extensively in the private industry and worked with the federal government in the past, working on public lands, natural resources, and environmental issues for **SEN. CONRAD BURNS** for four years.

The reason **Mark Simonich** wanted this position was because of his interest in public policy, he said. **Mr. Simonich** stated he was interested in helping to develop the economy in Montana.

Goals that **Mark Simonich** wants to work on are: (1) ensuring the people would receive the best return on their dollar which was the best service from the governmental programs, (2) help market Montana, (3) to be an outspoken advocate for business retention and recruitment.

#### **Proponents' Testimony:**

**Tom Ebzery, representing himself**, told the committee he had found **Mr. Simonich** to be open, honest, and candid in working with him in the past. **Mr. Ebzery** said **Mark Simonich** had a very difficult task in the reorganization under Governor Racicot with merging two agencies, and two mind-sets into one. **Mark Simonich** has shown integrity and the ability to run an agency, **Mr. Ebzery** said.

#### **Opponents' Testimony: None**

#### **Questions from Committee Members and Responses:**

**SEN. JOHN BOHLINGER** told **Mark Simonich** he had a constituent that was concerned about some possible changes in the Department of Commerce, being moved in with the Department of Public Health and Human Services. **Mr. Simonich** responded that was not being contemplated at this time. **Mr. Simonich** said he wants to focus the energy of the Commerce Department into focusing on community development, economic development, business promotion, public

financing segment, combining a variety of grant and loan programs. **Mark Simonich** added that he saw housing as a key issue in economic development.

**SEN. BOHLINGER** asked if **Mark Simonich** would approve of an increase in the accommodation tax listed in SB 127 by 2%? **Mark Simonich** said he would not support the increase because **Governor Martz** would oppose the tax increase. **SEN. BOHLINGER** said perhaps he should change the wording in the bill to be a referendum instead. **Mark Simonich** agreed that might be better.

**SEN. EVE FRANKLIN** asked **Mark Simonich** how the Research and Commercialization Board is going? **Mark Simonich** responded it was created in special session. The department took efforts to get it running. **Mr. Simonich** said this board was worthwhile and the effort from the group was impressive.

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**SEN. KEN TOOLE** asked **Mark Simonich** what could be done to improve the image of Montana? **Mark Simonich** responded we need to actively promote Montana, remembering that the greatest resource is the people.

**SEN. TOOLE** asked **Mark Simonich** what he saw as the greatest economic development in Montana? **Mark Simonich** answered that the tax structure was a barrier, so improvement in the tax structure would be helpful. Infra-structure in communities is important in showing businesses we had the kind of communities they would want to come in and have employees live. **Mark Simonich** listed Bozeman as an example of a growing community. He added that he felt part of the reason for that growth was because of good air service in Bozeman.

**SEN. TOOLE** asked **Mark Simonich** what he felt should be the highest priority, given limited resources? **Mark Simonich** answered that retention of businesses would be the first goal. When businesses close, that presents a negative image.

**SEN. TOOLE** asked **Mark Simonich** to give his perspective on **Governor Martz's** idea of putting an office in Washington D.C. and how that would inter-relate to his job in commerce? **Mark Simonich** responded said the Washington office could relate to several agencies. He said having an office in Washington gives an immediate voice in federal agencies. **Mark Simonich** added that in terms of commerce, having an office in Washington D.C. would be very positive and have many benefits.

**SEN. PETE EKEGREN** told the committee he had heard many positive comments about **Mark Simonich**. **SEN. EKEGREN** asked **Mark Simonich** if he wanted the government to promote business and not deter business? **Mark Simonich** replied that was correct.

**SEN. EKEGREN** told **Mark Simonich** that the biggest complaint he had received from constituents was that the Department of Commerce had been a deterrent in promoting business because permits for starting a business were such a problem. **SEN. EKEGREN** said the permits cost too much money and they took such a long time to get the permit. **Mark Simonich** said this was a similar experience in every community. He added this needs to be a goal of the department. **Mr. Simonich** stated another area of concern was the professional occupational licensing. Because of the regulations of the boards are not always for safety and public health, but are more a protection of an profession.

**SEN. BUTCHER** expressed frustration over the different boards having different rules and regulations, including reciprocity agreements. **Mark Simonich** said that was something he wanted to work on because each one of those boards had specific authority granted it by the legislature. They were attached to the department for administrative purposes. **Mr. Simonich** said some changes need to be made in regards to the boards. Some of the boards had put together reciprocity agreements and some had not. **Mr. Simonich** said he would like to look into this and put together a proposal to bring back in two years with possible legislation.

**SEN. DON HARGROVE** asked **Mark Simonich** if legislation was needed for the reorganization of the boards' policies? **Mr. Simonich** responded that, yes, it would be needed.

**SEN. HARGROVE** asked **Mark Simonich** how he felt about people being able to do business anywhere in the state because of high technology, telecommunication infrastructure and the internet if they employ some innovative ideas? **Mark Simonich** said he agreed with that idea, but there was a lot to be done in that area yet. **Mr. Simonich** said there are tax credits that can be used and we needed to promote those savings to the companies.

**SEN. BUTCHER** said his constituents have seen escalating fees for boil inspectors and hot water inspectors. **Mark Simonich** said regulations were put in place to protect public health and safety. He added that we needed to be careful that those regulations continued to do that and not to perpetuate fee increases. **Mr. Simonich** said it was important to be careful to not generate a large pot of fees.

**Mark Simonich** closed the hearing by saying that from serving eight years in state government, he had found the people are great servants to the people in Montana and that we need to provide the people in Montana guidance. **Mr. Simonich** said he wanted people to be encouraged to live and work in Montana.

#### HEARING ON SR 15

**Sponsor:** SEN. PETE EKEGREN, SD 44, Choteau

**Proponents:** Tom Ebzery, Montana Contractors Association  
Kevin Braun, representing himself

**Opponents:** None

The hearing for SR 15 began with **Mike Foster, Director of the Department of Labor**, telling the committee what an honor and a sense of responsibility it was to be asked to fill this position. **Mr. Foster** said he was born and raised in Montana. He holds two bachelor degrees and one master degree. Prior to coming to this position, he was the Director of the Montana Contractors Association. **Mr. Foster** said he was asked to fill this position because of the experience gained in that position. **Mr. Foster** said he was excited about the challenge of work force development for economic development which would be his main emphasis. He voiced his confidence and encouragement by the staff members.

#### Proponents' Testimony:

**Tom Ebzery, Attorney for the Montana Contractors Association**, commended **Mike Foster** for this position. **Mr. Ebzery** stated that **Mike Foster** was a very competent individual, a good executive director, and understands government. He said **Mike Foster** was excited about this job and was a man of integrity.

**Kevin Braun, private citizen**, told the committee members that qualities **Mike Foster** had for this job would be that he was hard-working, honest, and had high integrity.

**Opponents:** None

#### Questions from Committee Members and Responses:

**SEN. TOOLE** asked **Mike Foster** if he supported "Right to Work" legislation? **Mr. Foster** responded that he never took a solid position on the bill because he never heard a debate on the bill.

**SEN. TOOLE** encouraged him to look into the "Right to Work" further.

**SEN. TOOLE** asked **Mr. Foster** about the Little Davis Bacon Act? **Mike Foster** responded that the construction industry strongly supported the Little Davis Bacon Act because it was important to that industry. He said by having the Little Davis Bacon Act in place, the wages of employees were not an issue. If the project was state or tax funded, then the Little Davis Bacon Act applied; however, if the project was federally funded, then the Davis Bacon Act applied.

**SEN. TOOLE** asked **Mike Foster** what kind of priority or commitment would he have for human rights? **Mike Foster** responded that the process was working very well with much efficiency. He had noticed a dedicated professionalism in that area. **Mr. Foster** said that issue was an important aspect of the department and would be treated with the utmost respect.

**SEN. HARGROVE** asked **Mike Foster** what goals he had for work-force development? **Mr. Foster** answered the construction industry was facing a huge challenge of having a sufficient number of people well-trained. He added that the focus needed to be in junior and high school aged students to let them know there were options out there besides college, so that they would know when they graduated from high school what they wanted to do.

**SEN. HARGROVE** told **Mike Foster** that the company presidents sometimes say that the government programs for training aren't effective. **Mike Foster** responded that the training situations do, however, provide a foundation upon which to work and build upon.

**SEN. BUTCHER** asked since much money had been spent in the school-to-work program, should the Department of Labor get more involved to make the program more effective? **Mike Foster** responded that he had been working with the Office of Public Instruction in the area of school-to-work program and also the Jobs for Montana Graduates program, trying to work together to improve these programs.

**Mike Foster** closed SR 15 by saying what an honor it was to be appointed for this position.

**SEN. TOOLE** distributed a hand-out **EXHIBIT(sts26a01)** about the McCain-Feingold-Cochran Campaign Reform Bill Summary.

EXECUTIVE ACTION ON SR6

Motion/Vote: SEN. BUTCHER moved that SR 6 BE ADOPTED. Motion carried unanimously.

EXECUTIVE ACTION ON SR 8

Motion/Vote: SEN. TOOLE moved that SR 8 BE ADOPTED. Motion carried unanimously.

EXECUTIVE ACTION ON SR 10

Motion/Vote: SEN. TOOLE moved that SR 10 BE ADOPTED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 91

Motion/Vote: SEN. FRANKLIN moved that HB 91 BE CONCURRED IN. Motion carried unanimously.

Discussion:

SEN. BOHLINGER said this bill allows school districts an opportunity to reduce some costs of holding elections with simplifying the whole process.

EXECUTIVE ACTION ON SB 296

Motion: SEN. TOOLE moved that SB 296 DO PASS.

Discussion:

David Niss, legislative services, explained the Iowa Supreme Court Case of Iowa Right to Life vs. Williams in 1999 which challenged a similar statute to SEN. DOHERTY's bill which was held unconstitutional by the district court and ultimately by the 8<sup>th</sup> federal circuit court of appeals. Mr. Niss said the two cases had a direct contradiction. Since SEN. DOHERTY's bill does exactly the opposite of the unconstitutional case, that would put this bill in a substantially different position than the statute that was declared unconstitutional in the Iowa case. Mr. Niss said the committee could amend the bill to put in either a

legislative finding purposes section directly into law or a pre-amble into the bill to register a litany of evils that the bill would attempt to overcome. In addition to the difference in the statutes, the second step of making some findings might also marginally improve the constitutionality of the bill.

**SEN. BUTCHER** said he had a problem with getting the government involved in an issue like this.

**SEN. BOHLINGER** said democracy was at risk with the electorate becoming disheartened by the process. He told the committee we needed this effort to improve democracy. **SEN. BOHLINGER** stated if this wasn't done, it would cause fewer and fewer people to vote.

**SEN. HARGROVE** asked **David Niss** what "person" meant and if it would mean an organization, corporation, or union? **Mr. Niss** replied the general does include natural people and the individual corporation, association, firm partnership, cooperative committee, club, union, or other group of individuals, or a candidate as defined in Sub-Section 5.

**SEN. HARGROVE** asked **David Niss** if any communication would have to be recorded? **David Niss** answered any communication would have to be filed with the commissioner and the candidate would have to respond or it would be deemed rejected or not approved by the candidate.

**SEN. BUTCHER** told the committee he was also concerned about the size of the rejection notice on the ads.

**SEN. TOOLE** said this bill was about independent expenditures. He said this bill was the biggest loophole in campaign law in which the entire purpose of expenditure was to get around campaign limits.

**SEN. TOOLE** said he would support this bill because of the large amounts of money that are able to flow through these things.

**SEN. FRANKLIN** said the Commissioner of Political Practices would develop a set of specifics for this bill.

**SEN. HARGROVE** added the Commissioner would also prosecute as a misdemeanor if there were challenges.

**Vote:** Motion carried 5-3 with Butcher, Hargrove, and Thomas voting no.



**ADJOURNMENT**

Adjournment: 12:00 P.M.

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SEN. DON HARGROVE, Chairman

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LYNETTE BROWN, Secretary

DH/LB

**EXHIBIT (sts26aad)**